

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BYRON LEVINGSTON,  
  
Plaintiff,  
  
v.  
  
CHRISTIAN PFEIFFER, et al.,  
  
Defendants.

Case No.: 1:24-cv-00218-SKO

**ORDER DENYING PLAINTIFF'S MOTION  
FOR ALTERNATIVE DISPUTE  
RESOLUTION PROCEEDING**

(Doc. 11)

Plaintiff Byron Levingston is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

**I. INTRODUCTION**

Following screening, the Court determined Plaintiff's original complaint failed to state a claim upon which relief could be granted. (Doc. 7.) Plaintiff was given leave to file a first amended complaint. (*Id.* at 13-14.)

Plaintiff filed a first amended complaint and a request for the appointment of counsel on May 13, 2024. (Docs. 8, 9.) On May 29, 2024, the Court issued its "Order Denying Plaintiff's Request for Appointment of Counsel." (Doc. 10.)

On September 9, 2024, Plaintiff filed a document titled "Motion for Alternative Dispute Resolution Proceeding Pursuant to Local Rule 16-15." (Doc. 11.)

## II. DISCUSSION

Plaintiff requests that this Court issue “an order directing the parties to participate in an alternative dispute resolution (ADR) proceeding pursuant to Local Rule 16-15.” (Doc. 11 at 1.) Plaintiff contends this case involves significant and complex issues and that an ADR proceeding is in the interests of justice, judicial economy, and fairness. (*Id.* at 1-2.) He states that “[b]oth parties stand to gain from the confidentiality and flexibility that ADR offers.” (*Id.* at 2.)

As an initial matter, the Court notes its Local Rules do not include a number “16-15.”<sup>1</sup> While this Court’s Local Rule 271 pertains to ADR proceedings, prisoner civil rights actions are an exception. *See* Local Rule 271(a)(2).

As Plaintiff was advised in the First Screening Order, this Court is required to screen complaints brought by prisoners. (Doc. 7 at 1.) The Court screens all original and amended complaints in accordance with 28 U.S.C. § 1915A(a). Plaintiff’s first amended complaint, filed May 13, 2024, will be screened in due course. This Court is one of the busiest district courts in the nation and all judges carry a heavy caseload. Hundreds of prisoner civil rights cases are filed in this district every year and delays are inevitable. (*See* Doc. 2 at 3 [First Informational Order in Prisoner/Civil Detainee Case].)

Additionally, because Plaintiff’s first amended complaint has not yet been screened, service of process has not been ordered or effected and, therefore, defendants have not yet appeared in this action. Thus, the Court cannot issue an order directing the defendants named in this action to participate in early ADR. Plaintiff is advised it is this Court’s practice to issue an order regarding early ADR only after the defendants named in the action have filed an answer to the operative complaint. Any participation in early ADR proceedings is also *voluntary*. If any party does not wish to participate in early ADR, the Court will not require participation.

In sum, Plaintiff’s motion will be denied. Until Plaintiff’s first amended complaint has been screened and the Court has determined it states a claim or claims upon which relief can be

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<sup>1</sup> This Court’s Local Rules commence numbering at 100 and conclude with number 590. *See* Local Rules of the United States District Court for the Eastern District of California, effective August 7, 2023. <https://www.caed.uscourts.gov/caednew/assets/File/EDCA%20Local%20Rules%20Effective%208-7-23.pdf>.

1 granted, no further action will be taken. Once the Court determines any operative complaint may  
2 proceed past screening, service of process by the United States Marshal will commence. After the  
3 defendants appearing in the action have filed an answer to the operative complaint, the Court will  
4 issue an order regarding early ADR.

5 **III. CONCLUSION AND ORDER**

6 Accordingly, for the reasons set forth above, **IT IS HEREBY ORDERED** that Plaintiff's  
7 motion for early ADR (Doc. 11) is **DENIED**.

8  
9 IT IS SO ORDERED.

10 Dated: **September 10, 2024**

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE